

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In Re: Circuit City Stores, Inc.,
Debtor.

Case No. 08-35653-KRH
Chapter 11 Proceeding

YVETTE MACK,)
)
Plaintiff,)
)
v.)
)
CIRCUIT CITY STORES, INC,)
)
Defendant.)

NOTICE OF AND MOTION FOR RELIEF FROM AUTOMATIC STAY

Yvette Mack (“Mack”) has filed papers with the Court to seek relief from the automatic stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief sought in this motion, or if you want the Court to consider your views on the motion, then within fifteen (15) days from the date of service of this motion, you must file a written response explaining your position with the Court at the following address:

William C. Redden, Clerk
U.S. Bankruptcy Court
Eastern District of Virginia
Richmond Division
701 E. Broad Street, Suite 4000
Richmond, VA 23219

Robert H. Chappell, III, Esquire (VSB #31698)
Jennifer J. West, Esquire (VSB #47522)
Erin E. Corbett, Esquire (VSB #65360)
SPOTTS FAIN PC
411 East Franklin Street, Suite 600
Richmond, Virginia 23219
Tel: (804) 697-2000 Fax: (804) 697-2100
Counsel for Yvette Mack

If you mail your request or response to the Court for filing, you should mail it early enough so the Court will receive it on or before the date stated above.

You must also mail a copy to

Jennifer J. West, Esquire
SPOTTS FAIN PC
411 East Franklin Street, Suite 600
Richmond, Virginia 23219

You must attend the Preliminary Hearing scheduled to be held on **February 13, 2009 at 10:00 a.m.**, in Courtroom 5000, United States Bankruptcy Court, U.S. Courthouse 701 E. Broad Street, Richmond, Virginia.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an Order granting that relief.

MOTION FOR RELIEF FROM AUTOMATIC STAY

Mack submits the following Motion for Relief from Automatic Stay, requesting the Court permit Mack to continue Settlement Negotiations and/or to prosecute Litigation (as hereinafter defined) to judgment or settlement. In support of this Motion, Mack states the following:

1. Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. § 1334. This matter is a “core” proceeding as set forth under 28 U.S.C. § 157.

2. On November 10, 2008 (the “Petition Date”), the Debtor filed under Chapter 11 of Title 11 of the United States Code.

3. On May 18, 2008, Mack suffered personal injuries while in the the parking lot of Circuit City at Highway 70 South, Nashville, Tennessee, 37221 (the “Incident”).

4. Mack and Circuit City had entered into settlement negotiations related to the Incident (the “Settlement Negotiations”), prior to the Petition Date.

5. Upon the filing of this bankruptcy, the Settlement Negotiations were stayed by the automatic stay of 11 U.S.C. 362.

6. In addition, upon the filing of this Bankruptcy, Mack was stayed from the filing of a lawsuit related to the Incident (the “Litigation”).

7. Through Litigation, Mack would seek a ruling for the purposes of: (1) determining the liability of the Debtor to Mack; and (2) collecting insurance proceeds from any available insurance policies.

8. The interests of Mack in the above-referenced Settlement Negotiations and Litigation are not adequately protected constituting cause for granting relief from the automatic stay of 11 U.S.C. § 362.

9. Mack requests that the ten-day period under Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure during which the stay remains in effect be waived and any Order granting relief shall become effective immediately upon entry.

WHEREFORE, Yvette Mack respectfully requests that this Court enter an Order:

- (a) Granting her relief from the automatic stay of 11 U.S.C. § 362, allowing Yvette Mack to continue the Settlement Negotiations;
- (b) Granting her relief from the automatic stay of 11 U.S.C. § 362, to allow Yvette Mack to pursue Litigation to judgment or settlement for the following purposes:
 - (1) determining the liability of the Debtor to Mr. Mack; (2) collecting insurance proceeds from any available insurance policies;
- (c) Maintaining the automatic stay of 11 U.S.C. § 362 in full force and effect except as otherwise requested herein;
- (d) Waiving the ten-day period under Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure during which the stay remains in effect; or

- (e) Otherwise granting her adequate protection, and that she have such other and further relief as the Court may deem appropriate.

YVETTE MACK

By: /s/ Erin E. Corbett
Counsel

Robert H. Chappell, III, Esquire (VSB #31698)
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Counsel for Yvette Mack

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of and Motion for Relief from Automatic Stay was served by first class mail and/or electronic means, this 14th day of January 2009, to:

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_____/s/ Erin E. Corbett